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## Review of the Energy Taxation Directive The view of Europe's independent fuel suppliers

UPEI – Europe's Independent Fuel Suppliers, calls a swift review of the Energy Taxation Directive (ETD) to support the transition to low carbon fuels and address current issues related to the functioning of the internal market.

### 1. Support the transition to low and carbon neutral fuels

The ETD should increase the competitiveness of low and carbon neutral alternative and renewable fuels, driving their prices down and offering consumers both greener and cheaper alternatives.

#### 1.1. Basis for the taxation of energy products and electricity

It is important to move away from the current volume-based approach. Taxation rates should be defined **on the basis of both the energy content and CO<sub>2</sub> emissions of each energy product**, for effective climate mitigation, energy efficiency improvement and ensuring a level playing field between different technologies.

#### 1.2. Consistency with EU policy framework

The ETD should support the objectives of other EU legislation, such as the Renewable Energy Directive (RED), the Directive on Alternative Fuels Infrastructure (AFID) as well as the European Trading Scheme (ETS), in a coherent manner (aligning objectives and definitions) and avoiding double taxation or equivalent effect. In particular, **should an ETS be introduced in the transport and building sectors, a CO<sub>2</sub>-based tax would then not be necessary in the ETD.**

#### 1.3. Clear support for low and carbon neutral fuels

**Regarding CO<sub>2</sub> emissions, all sustainable renewable energy sources<sup>1</sup> should be counted with an emission factor of 0**, to reflect their carbon performance over the life cycle.

In parallel, **mandatory tax reductions or exemptions for a period of 10 years or more** would be coherent with the need to stimulate innovation and production in line with the EU climate objectives and targets for the penetration of low and carbon neutral fuels<sup>2</sup>.

#### 1.4. Technological update

While applying the above recommendations on basis for taxation and supporting fiscal measures, the ETD should be **brought up to date** to adequately cover recent technology and market developments (electricity for transport, e-fuels, advanced biofuels).

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<sup>1</sup> As defined in the Renewable Energy Directive

<sup>2</sup> Currently, optional exemptions may only be granted for a period of 6 years, after which they are treated as State Aid. This timeframe does not take account of the high risk and investment cost for developing biofuels and therefore undermines the development of the market, as the rate of return exceeds 6 years.

## 2. Foster harmonisation and the smooth functioning of the Single Market

Whilst the ETD has imposed minimum taxation rates, this has not resulted in significant harmonisation across the EU, as there remain wide variations in levels of taxation. This can result in volatile distortions of the market affecting the supply chain, and creating uncertainties, notably in cross border situations. The review should improve the coherence of the ETD framework.

### 2.1. A common set of rules

The ETD should define **a common tax structure, basis for the calculation of rates and underlying data, applicable, in principle, to all energies and all uses**. Member States should be responsible for implementing these provisions consistently, while preventing social side-effects negatively impacting certain categories of the population, through incentives and support measures.

In addition to minimum tax rates, the ETD should **set maximum tax rates, thus defining a range**, to reduce the level of variation between Member States, in order to limit tank tourism and distortion of competition on the energy market.

### 2.2. More consistent implementation of the ETD at national level

Distortions occur because the ETD allows Member States to introduce optional tax reductions and exemptions on specific products and for specific uses<sup>3</sup>. While respecting Member States right to determine taxation rates, **optional tax reductions and exemptions should be replaced by mandatory tax reductions and exemptions** to protect the internal market.

Distortions also occur due to different national approaches to the conditions for granting mandatory exemptions, in the case of bunker fuels for example. Member States have so far taken different approaches, creating legal uncertainty for operators, especially in cross-border situations, and generating many ECJ rulings. The revised ETD should set out **essential requirements** and through subsequent implementing measures or guidelines, **guide Member States for the consistent interpretation of the legislation**.

## 3. Keep a sector-based approach while improving coherence

The definition of taxation rates for different sectors should follow the same approach and use the common tax structure. However, keeping different treatments for certain sectors is still fit for purpose.

### 3.1. Heating

The ETD should provide for **reduced tax levels in the heating sector to fight energy poverty**, possibly capped to a certain energy consumption threshold per household under which basic energy needs are tax exempted. In addition, it should include tailored mechanisms for households in off-grid areas, typically in insular, rural and mountainous regions, which have for the moment a more limited access to low carbon energies.

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<sup>3</sup> For example, in the dredging sector, fuel consumption is exempted in Belgium and the Netherlands, but fully taxed in Denmark and Germany; in the inland shipping sector, Member States apply different reductions and exemptions.

### 3.2. Maritime transport

The review **should maintain the mandatory tax exemption for energy products supplied for use as fuel for the purposes of navigation**. The supply of tax-free bunkers reflects an international norm<sup>4</sup> but is also essential for EU companies to compete on the same footing suppliers from outside the EU. Shipping is a global business and bunkering decisions are very price sensitive<sup>5</sup>.

Seagoing vessels (international commercial shipping) are used for international as well as intra community transports<sup>6</sup>. In many EU countries, bunkering deliveries to seagoing vessels are considered as an export, whatever the destination of the vessel, therefore are dealt with under the customs and not the excise procedures.

In parallel, optimising the use of the bunker barges, including storage, transshipment, spot sales, is essential for the bunker sector to operate economically. These features would make it **impractical to differentiate tax levels depending on the type of vessels supplied, and/or the journeys each undertakes, by bunkering companies**.

### 3.3. Aviation

The review **should maintain the mandatory tax exemption for energy products supplied for use as fuel for the purposes of air navigation**. Should aviation fuel taxation be applied for intra-EU flights, particular measures should be foreseen to prevent aircraft from refuelling outside the EU with the purpose of circumventing the EU tax, which would bring neither a climate benefit nor revenue for Member States.

UPEI and its members are committed to work with EU policymakers to deliver an ambitious review of the ETD.

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<sup>4</sup> International Convention on the Simplification and Harmonisation of Customs Procedures (the Kyoto Convention) 1999, chapter 4 of Annex J.

<sup>5</sup> A 1% difference in the price per tonne can lead to a 30,000 EUR difference on the bill for a complete refueling for a typical container ship. Bunkering is often based on short-term contracts making it easy to switch supplier. In 1991, California imposed a 8% tax on bunker fuels and after one year the volume of bunker fuel delivered in its ports had dropped by 68%.

<sup>6</sup> Fuel supply to sea-going vessels (which bear an IMO number) is considered by most Member States as an export and therefore it is dealt with in the context of the custom legislation.

UPEI represents nearly 2,000 European importers and wholesale/retail distributors of energy for the transport and heating sectors, supplying Europe's customers independently of the major energy producers. They are the interface between producers and consumers, using their own infrastructure and flexibility to supply existing demand for conventional and renewable liquid fuels, as well as non-liquid alternatives as part of the energy transition. They cover more than a third of Europe's current demand. The organisation brings together national associations and suppliers across Europe.

Independent fuel suppliers bring competition to Europe's energy market and are able to respond rapidly to changes affecting supply, contributing to security on a local, national and regional level. They have developed and maintain a comprehensive infrastructure for the sourcing, storage and distribution of transport and heating fuels, with a commitment to delivering a high-quality service to all consumers, including those in remote areas.

Since 1962 UPEI has been advocating for a level playing field and fair competition to ensure an affordable, sustainable, and secure energy supply for Europe's consumers. Today, in the context of the transition to a low carbon economy, UPEI and its members are also addressing the challenges of adapting the product range and meeting consumer demand through market-oriented solutions.

With its strong track record in pioneering the supply of renewable fuels in the EU, UPEI's members remain committed to delivering and embracing new, cost effective solutions which further promote energy efficiency and reduce pollutants and emissions.